108 FERC ¶ 61,197
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeen G. Kelly.

Northern Natural Gas Company Docket No. RP04-405-000

ORDER CONDITIONALLY ACCEPTING TARIFF SHEETS

(Issued August 19, 2004)

1. On July 20, 2004, Northern Natural Gas Company (Northern) filed revised tariff sheets[1] to implement a new service enhancement, on a trial basis, that would allow local distribution companies (LDCs) with non-telemetered delivery points to avoid exposure to Northern's daily delivery variance charges (DDVC) by bundling their non-telemetered delivery points into one Operational Zone. LDCs would then nominate to the Operational Zone point using a load-forecast formula they mutually agree upon with Northern. Under the proposal, Northern would not apply DDVCs to nominations at a non-telemetered Operational Zone delivery point. Northern proposes to operate the service enhancement on a one-year trial basis, commencing January 1, 2005. Northern requests an August 19, 2004 effective date for the tariff sheets to allow it sufficient time to make necessary computer system modifications and to operate an open season for its proposed service.

2. We accept Northern's revised tariff sheets effective August 19, 2004, as proposed, subject to the conditions discussed below. This acceptance benefits shippers by increasing operational flexibility and by allowing LDCs with non-telemetered points to minimize exposure to DDVCs.

[1] Ninth Revised Sheet No. 259 and Fourth Revised Sheet No. 292A to its FERC Gas Tariff, Fifth Revised Volume No. 1.

Details of Filing

3. Section 28 of Northern's currently effective General Terms and Conditions (GT&C) allows an LDC to combine multiple delivery points, or Town Border Stations[2] (TBS), into one Operational Zone. The LDC may then make one nomination for the Operational Zone, instead of making separate nominations to individual points. The LDC's Operational Zone nomination cannot exceed the collective entitlements of the individual delivery points within the Operational Zone.

4. Northern's tariff requires its firm shippers to take daily volumes at their delivery points as close to daily scheduled volumes as possible. If the shipper does not conform to this requirement, it is subject to a charge for variances from scheduled quantities. This charge is called the DDVC.[3] If an LDC has combined its delivery points into an Operational Zone, and makes one nomination for the Operational Zone, then any DDVC charges are based on the difference between the scheduled deliveries for the Operational Zone and actual deliveries to the zone. Many of the delivery points on Northern's system are telemetered, thus allowing the operator to know, on a real-time basis, the actual volumes passing through the delivery point and take action to minimize any variances between scheduled and actual deliveries. However, some of Northern's delivery points are not telemetered.[4] For those points without telemetry, Northern cannot provide shippers or system operators with daily information concerning scheduling variances, and shippers cannot determine, on a real-time basis, the actual volumes passing through the delivery point. Consequently, shippers having non-telemetered points are particularly vulnerable to incurring DDVCs.

5. Certain LDCs have asked Northern to develop a service that would mitigate an LDC's exposure to DDVCs due to scheduling variances at non-telemetered delivery points. In response, Northern proposes a service enhancement, on a one-year trial basis, that would allow an LDC to segregate its non-telemetered points into one Operational Zone for nomination purposes, with any telemetered points it has being assigned to a different Operational Zone.[5] Northern would generate nominations on behalf of a participating shipper at this non-telemetered Operational Zone delivery point from a load-

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[2] A Town Border Station is a location where the LDC receives gas from Northern.

[3] Northern's DDVC provisions are set forth in section 48 of its GT&C.

[4] Northern provides that, on a volumetric basis, non-telemetered points account for about 15 percent of its Market Area throughput. In its answer, Northern adds that about 61 percent of its Market Area delivery points are non-telemetered.

[5] As set forth in Appendix A of Northern's filing, LDCs that currently have both telemetered and non-telemetered points in one Operational Zone would establish one zone for its telemetered points, and a separate zone for its non-telemetered points.

forecast formula that Northern and the LDC would agree to beforehand. Northern states that it will base the load forecast formula on the forecasted temperature at 8:00 a.m. the day before gas flows. Northern will base the forecasted volume on historical daily volume flows at the non-telemetered points at the forecasted temperature based on the season, month, and day of the week. Northern provides in section 48(M) of its GT&C that DDVCs will not apply to non-telemetered Operational Zone nominations unless: (1) the LDC fails to nominate the quantity the load-forecast formula generates; (2) Northern issues a branchline System Overrun Limitation; or, (3) Northern issues a curtailment.

6. As a further condition of participation in the trial service enhancement, Northern would require the shipper to assign to a non-telemetered Operational Zone Maximum Daily Quantity (MDQ) volumes for Rate Schedules TF, TFX, or GST (all firm transportation services) equal to its peak day firm entitlement in the zone. Northern would also require a participating shipper to maintain Rate Schedule SMS[6] MDQs for the non-telemetered Operational Zone point equal to the forecasted volume associated with an eight-degree Fahrenheit temperature change based on the November through March load forecast formula.

7. Northern proposes to implement the service on a one-year trial basis commencing January 1, 2005. Northern proposes its service enhancement on a trial basis so it can test the accuracy of load forecast formulas and observe shipper behavior. Accordingly, Northern includes language on Sheet No. 292A limiting the service to calendar year 2005. Northern adds that receiving Commission approval for the trial service by August 19, 2004, would allow it time to make necessary computer system modifications.

8. Northern proposes to solicit participation in its trial service through an open season, which will end at least 90 days prior to the January 1, 2005, service commencement date. Northern contends this 90-day period will allow Northern and participating shippers time to identify and separate telemetered and non-telemetered points and to provide any required realignment of points, MDQs, and SMS services. Northern adds that, in the event a shipper establishes a non-telemetered Operational Zone delivery point, other firm shippers having contracts containing the LDC's Operational Zone delivery point would have to amend their contacts to reflect the new service.

Notice

9. The Commission issued notice of Northern's filing on July 22, 2004. Interventions, comments, and protests were due as provided in section 154.210 of the Commission's regulations (18 C.F.R. § 154.210 (2003)). Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.214 (2003)), all timely

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[6] System Management Service, which is a no-notice transportation service.

filed motions to intervene and any motions to intervene out-of-time filed before the issuance date of this order are granted. Granting late intervention at this stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties. Aquila, Inc., and Northern States Power Company (Minnesota and Wisconsin) filed comments in support of Northern's proposal. Virginia Power Energy Marketing, Inc. (VPEM) filed adverse comments. The Northern Municipal Distributors Group and the Midwest Region Gas Task Force (NMDG/MRGTF) filed a protest. Northern filed an answer to comments and protest.[7] Parties' concerns and Northern's answer are summarized and discussed below.

Discussion

10. We conditionally accept Northern's tariff sheets effective August 19, 2004, as proposed, subject to the discussion below. Northern's proposal addresses concerns shippers expressed in Northern's Order No. 637 proceeding about their inability to keep actual deliveries close to scheduled deliveries at non-telemetered points, resulting in shippers incurring DDVCs.[8] Northern's proposal would benefit LDCs by providing a means for them to minimize exposure to DDVCs at non-telemetered delivery points. It would generally benefit all shippers by allowing Northern to improve overall system operations. Further, since Northern's proposal is voluntary, Northern could not require a shipper to utilize the service. Also, since Northern proposes to implement the service on a one-year trial basis, shippers will have a chance to experiment with the service enhancement and comment on the service at the close of the trial period.

11. Based on the protest and comments, however, certain elements of Northern's proposal warrant further discussion.

Request to Reject Proposal or Set for Hearing

12. NMDG/MRGTF asks the Commission to either reject Nothern's proposal as unsupported, or in the alternative, suspend and set it for hearing either separately or in conjunction with Northern's ongoing rate proceedings in Docket Nos. RP03-398 and RP04-155. In arguing to reject Northern's proposal, NMDG/MRGTF asserts that Northern fails to identify delivery points that the proposal would affect, or discuss how

[7] While the Commission;s procedural rules do not provide for answers to comments and protests, the Commission accepts Northern's answer since it assists us in resolving the issues.

[8] Docket No. RP00-404-000, *et al*.

the proposal would impact system operations. NMDG/MRGTF also contends that Northern should identify the MDQ available at each point, as well as historical data concerning nominated volumes, scheduled volumes, and DDVCs assessed at those points.

13. In arguing to suspend Northern's proposal and set it for hearing, NMDG/MRGTF contends that the proposal involves issues parties are currently discussing in Northern's ongoing rate proceeding in Docket Nos. RP03-398 and RP04-155, where parties are currently attempting to negotiate a settlement. NMDG/MRGTF adds that it would be a better use of time and resources for the Commission and parties to address these issues through hearing procedures.

14. In its answer, Northern argues that the Commission should not reject NMDG/MRGTF's recommendation to summarily reject or suspend the proposal through hearing procedures since the proposed service is voluntary in nature and since many shippers support the service. Northern further argues that the Commission should not combine its proposal with its ongoing rate proceeding hearing since the proposal is a stand-alone program that the Commission should decide on its own merits.

15. We deny NMDG/MRGTF's recommendation that the Commission reject Northern's proposal or set it for hearing. As discussed above, Northern proposes its service enhancement at the request of some shippers, and the proposal carries numerous benefits. For example, it benefits LDCs by helping them minimize exposure to DDVCs at non-telemetered delivery points. Also, since participation in the program is voluntary, it should not adversely affect those who choose not to participate. In fact, the program could benefit all shippers by allowing Northern to generally operate its system more efficiently. Further, the fact that Northern only proposes to implement its proposal on a one-year experimental basis will allow it to gain experience and identify any operational issues that may arise, and adjust the proposal as necessary to resolve those issues.

16. We also deny NMDG/MRGTF's request to set the proposal for hearing, either separately or in conjunction with Northern's ongoing rate proceeding in Docket Nos. RP03-398 and RP04-144. Since shippers generally support Northern's proposal and it conforms to Commission policy, we believe Northern should be permitted to implement its proposal and gain experience with it as soon as possible, instead of rolling it into the ongoing rate proceeding hearing, which could delay implementation of the proposal.

Load Forecast Formula

17. Northern's proposes in section 28 of its GT&C to base nominations for a non-telemetered Operational Zone delivery point on a load forecast formula "agreed to by Northern and Shipper." VPEM and NMDG/MRGTF express concerns over specifics of the load forecast formula. NMDG/MRGTF asserts that Northern should use the same

formula for all participating shippers and include the formula in its tariff. It contends that allowing Northern and a shipper to “individualize” the formula could result in discriminatory behavior against certain shippers. NMDG/MRGTF needs more assurances that any formula developed results in nominations at least reasonably close to reality.

18. VPEM submits that Northern should provide further clarity into specific inputs into the formula. It asks how Northern would determine the temperature forecast used in the formula, and how Northern and a shipper would agree to a particular formula. VPEM also questions whether once Northern and a shipper agree on a formula and determine a volume, whether the shipper will be responsible for confirming its nomination with the point operator or whether the point operator will tell the shipper what volumes are to be delivered at the non-telemetered point.

19. In its answer, Northern clarifies that, with respect to the confirmation process, Northern does not control the relationship between the shipper and point operator; however, it is committed to working with the point operators to ensure that the nomination process runs smoothly and to resolve any outstanding issues related to its proposal.

20. We share NMDG/MRGTF’s and VPEM’s concerns that Northern’s proposal may give it too much discretion in the negotiation of load forecast formula with an individual shipper. Allowing Northern unlimited discretion to individualize the formula with each shipper could result in uneven and potentially discriminatory treatment. On the other hand, we also recognize that the circumstances of particular shippers may vary, and, as a result, some flexibility in the load forecast formula used for particular shippers is also desirable. Accordingly, in order to balance these concerns, we direct Northern to develop one generic default load forecast formula that would be available to all shippers, and incorporate that formula in its tariff. That formula should, for example, specify (1) the weather forecasting service whose temperature forecast will be used, (2) the number of years comprising the historical period to be used in forecasting volumes at different temperatures, (3) how the historical seasonal, monthly, and daily volumes will be factored together to arrive at forecasted volumes for a particular day at different temperature ranges, and (4) any other variables necessary to clarify the forecasting procedure. We will also allow Northern and a shipper to agree to use a formula different from the generic formula identified in the tariff. However, in that case, Northern would have to file any new formula for Commission approval. This approach should minimize shippers’ concerns about potential discrimination.

21. Additionally, we agree with VPEM that Northern should provide more clarity regarding inputs into its formula. Therefore, we direct Northern to specify each parameter used in its formula and where it will obtain that information. Further, we direct Northern to specify in its tariff the source of its weather data used to implement the formula.

SMS Service

22. Northern includes in section 28 of its GT&C that shippers "must have assigned SMS MDQ to the non-telemetered Operational Zone point equal to the forecasted volume associated with an eight degree Fahrenheit change based on the November through March load forecast formula." VPEM submits that it is unclear whether a shipper must have SMS service to deliver to non-telemetered points, and requests clarification on this point. It contends that it is not necessary for shippers to have SMS service to participate in this program. It appears to VPEM and NMDG/MRGTF that Northern is using this service as a way to market SMS service.

23. NMDG/MRGTF asserts that Northern fails to justify or explain its proposed level of SMS service it will require a participating shipper to procure. NMDG/MRGTF also expresses concerns that shippers using this program will end up paying more in SMS charges than it would save in DDVCs. It believes this point is critical since Northern proposes this program to mitigate DDVCs at non-telemetered points.

24. In its answer, Northern argues that most LDCs currently have contracted SMS service, and Northern does not expect that LDCs would have to purchase new SMS service to use this service. Northern adds that without the SMS requirement, shippers electing the service would likely reduce their current SMS MDQ and, consequently, their contribution to the recovery of operational storage costs (which Northern uses to handle variances between scheduled and actual deliveries), since the non-telemetered points would be not subject to DDVCs under its proposal. Northern contends this would not be equitable for shippers not using the service. Finally, Northern clarifies that that the SMS MDQ requirement applies only to the LDC shipper/operator and not to third-party shippers choosing to nominate to non-telemetered points.

25. We accept Northern requiring shippers to procure SMS volumes for their non-telemetered Operational Zone delivery points equal to the forecasted volumes associated with an eight degree Fahrenheit change based on the November through March load forecast formula. Since Northern's proposal is voluntary, Northern would not require shippers to take SMS service against their will. Further, utilizing SMS service in combination with the load forecast formula presents a reasonable way to assure that shippers have adequate capacity available to operate a non-telemetered Operational Zone delivery point.

Other Issues

26. NMDG/MRGTF questions why Northern only offers its proposal on a trial basis. It argues that since Northern already has a wealth of historical data on its telemetered and non-telemetered points, data-gathering should not be a reason. NMDG/MRGTF believes that Northern has enough information to develop dependable load forecast formulas. Northern argues that it is proposing the service enhancement on a trial basis so it can test the accuracy of load forecast formulas and observe shipper behavior. We accept Northern's justification for offering the service on a one-year trial basis, and not a permanent basis.

27. NMDG/MRGTF asks why Northern limits its service enhancement proposal only to Operational Zone delivery points. It asserts that Northern should also offer its service to shippers with single non-telemetered points, or those with telemetered points. Northern states in its answer that its proposal only applies to non-telemetered points because those are the points for which daily information is not available on a real-time basis. Northern adds that the reason it designed the service for shippers that have Operational Zone delivery points is because points within Operational Zones make up the vast majority of delivery points that do not have telemetry. It adds that most, if not all, delivery points not included within an Operational Zone have telemetry. Northern states that to the extent a shipper has temperature-sensitive non-telemetered delivery points outside of an Operational Zone that would otherwise qualify under this proposal, Northern would consider offering the same service to such shippers.

28. We accept Northern's proposal to limit its proposed service enhancement to LDCs having non-telemetered delivery points. Section 154.201 of the Commission's regulations allows a pipeline to propose changes to its terms and conditions of service. The pipeline has the burden to show its proposal to be just and reasonable. In this case, Northern has adequately shown that its proposal is a just and reasonable solution to address LDCs' concerns about exposure to DDVCs. The Commission sees no need to expand the proposal to telemetered delivery points, since shippers at non-telemetered points have a greater ability to minimize scheduling variances as to avoid incurring DDVCs. However, Northern is unclear as to whether it would allow a shipper with a single non-telemetered delivery point to utilize this service. Accordingly, we direct Northern to clarify whether it would allow a shipper with a single non-telemetered delivery point to use this service and treat its delivery point as an Operational Zone delivery point.

29. VPEM asks why Northern proposes that a shipper needs to amend its underlying contract to participate in the program. In its answer, Northern explains that if a shipper requests to establish a non-telemetered Operational Zone, it would have to amend Appendix B of its agreement to segregate the telemetered points from the non-telemetered points, and their corresponding MDQs. Since a participating shipper would

use a new service and bundle its non-telemetered delivery points into a newly created Operational Zone, it appears reasonable that a shipper would need to amend its contract to reflect the service changes and the segregation of telemetered points from non-telemetered points.

30. VPEM recommends that the Commission direct Northern to file a report at the end of the one-year trial period providing information about the program. VPEM adds that the Commission should also convene a technical conference at the end of the one-year period for interested parties to discuss remaining issues. Northern agrees in its answer to file a summary report at the end of the trial period, but contends that it is premature at this time to require any further proceedings such as a technical conference.

31. We agree that Northern should file a report with the Commission at the close of its trial period. Since the one-year trial period ends December 31, 2005, we direct Northern to file this report on or before January 31, 2006. The report should clearly identify shippers who have used the service enhancement, and provide relevant data including what points each shipper bundled, the load forecast formula used, nominations the formula generated, actual scheduled volumes based on those nominations, how much SMS service shippers used, affects the service had on system operations, and other information the Commission and shippers may need to assess the viability of the new service. We will not require a technical conference to discuss Northern’s report at this time. We will decide whether or not to convene a technical conference once Northern files its report.

32. Finally, the Commission has one additional concern with Northern’s proposal. Northern’s proposed tariff language does not provide opportunity for shippers to terminate participation in the new service during the one-year trial period. Since Northern’s proposed service enhancement is new and experimental, we believe it reasonable that Northern allow shippers to terminate participation in the service at any time. Accordingly, we direct Northern to clarify in its tariff that shippers may terminate participation in the program with a 30-day written notice to Northern.

<u>The Commission orders:</u>

(A) We conditionally accept Northern's tariff sheets effective August 19, 2004, as proposed.

(B) We direct Northern to file, within 15 days of the date this order issues, revised tariff sheets addressing the discussion above.

(C) We direct Northern to file with the Commission a summary operations report, containing the information discussed above, on or before January 31, 2006.

By the Commission.

(S E A L)

Linda Mitry,
Acting Secretary.